

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:19-cr-00148

JOSEPH R. ZIEGLER

**UNITED STATES'S OPPOSITION TO DEFENDANT'S
MOTION FOR RECONSIDERATION FOR RELEASE ON BOND**

Now comes the United States of America, by Stefan J.O. Hasselblad, Assistant United States Attorney for the Southern District of West Virginia, with its Opposition to Defendant's Motion for Reconsideration for Release on Bond.

Introduction

On June 12, 2019, a federal grand jury indicted Defendant Joseph R. Ziegler on two counts of impersonating an employee or officer of the United States in violation of 18 U.S.C. § 912. ECF No. 1. After his arrest, the United States moved to detain the Defendant and the Court held a detention hearing on June 19, 2019. ECF No. 15. At the conclusion of that hearing, the Court found by "clear and convincing evidence that the defendant is a danger to others and the community and by a preponderance of the evidence that the defendant is a risk of flight." ECF No. 18. In addition,

the Court ordered the probation office to conduct an assessment of the home of Ms. Delva Newhouse - an acquaintance of the Defendant - to determine its suitability for releasing the Defendant. *Id.*

The probation office's June 24, 2019 report found that Ms. Newhouse's rural, 3-bedroom residence is "free from clutter and debris, and the investigation did not reveal any unlawful items." Ms. Delva Newhouse, her son Mr. Robert Newhouse, and the Defendant's girlfriend Ms. Corinna Donofrio live at the residence. The report indicated that transport to Court hearings may be unavailable because Ms. Donofrio is not comfortable driving nearby roads and Mr. Newhouse could not transport the Defendant if it interfered with Mr. Newhouse's work. The report also noted that the residence lacked phone service and cell reception.

On July 2, 2019, Defendant moved to reconsider the Court's detention order on the grounds that "there were no problems found during the home assessment that would make the property unsuitable as a residence for the defendant while he is awaiting trial." ECF No. 19.

Argument

As the Court has already found, the Defendant is a danger to others and the community, and presents a risk of flight. The probation office's report should not affect these findings. The Court should deny the Defendant's Motion for Reconsideration and the Defendant should remain detained pending trial.

The Defendant has a lengthy criminal record that shows a pattern of violence, dishonesty, and flight from authorities. According to the probation office's criminal history report, the Defendant has been convicted of at least six felonies in Michigan. The Defendant has committed offenses that involve violence: (1) Assault with Intent to do Great Bodily Harm Less than Murder, and (2) Assault with a Dangerous Weapon. The Defendant has committed offenses that involve dishonesty or flight: (3) Fleeing a Police Office[r] in a Motor Vehicle, (4)-(5) Resist and Obstruct Officer (two convictions), and (6) False Report of a Felony (pled no contest). And the Defendant has committed an offense that involves both violence and flight: (7) Escape from Jail through Violence.

The Defendant's arrests and convictions stretch over 30 years, which clearly and convincingly shows he is a consistent threat to the community. Moreover, although the Defendant's last conviction was in 2007, he was sentenced to 2 to 15 years of imprisonment, indicating that he may have been incarcerated for a substantial period of time between 2007 and the present.

Finally, the testimony of Deputy Morris at the Defendant's detention hearing showed that the Defendant's most recent arrest involved dishonesty and an attempt to deceive authorities. In the context of his lengthy criminal record, the Defendant's recent behavior only reinforces the inference that the Defendant is a risk to flee.

In light of the clear and convincing evidence that the Defendant is a threat to the community and presents a risk of flight, the Defendant should not be released to any home, regardless of its characteristics. Even putting that aside, the probation office's report raises questions about the suitability of the Defendant's proposed residence while awaiting trial. Ms. Newhouse's residence is located in a rural area without any phone connection or cellular reception, which would make it difficult or impossible to communicate with the Defendant about hearings or trial. Moreover, the report indicates that transportation to Court may be unavailable as Ms. Donofrio is not comfortable driving on roads near the residence, and Mr. Newhouse cannot transport the Defendant if it interferes with his work. Given these questions, the Defendant has now shown that Ms. Newhouse's residence is suitable for his release.

Conclusion

No condition or combination of conditions exist that will reasonably assure the Defendant's release at this time. The United States respectfully requests that the Court deny the Defendant's

Motion for Reconsideration and continue the Defendant's detention pending further proceedings.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing "UNITED STATES'S OPPOSITION TO DEFENDANT'S MOTION FOR RECONSIDERATION FOR RELEASE ON BOND," has been electronically filed and service has been made on opposing counsel by virtue of such electronic filing this 8th day of July, 2019 to:

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